

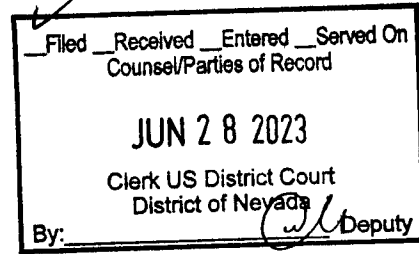
Devendra I. Patel

Name

Prison Number

Supervised Release

Place of Confinement



UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

vs.

Devendra I. Patel M.D., Movant.

CASE NO. \_\_\_\_\_  
(To be supplied by the Clerk)

MOTION PURSUANT TO  
28 U.S.C. §2255 TO VACATE,  
SET ASIDE OR CORRECT  
SENTENCE BY A PERSON IN  
FEDERAL CUSTODY

(If movant is attacking a sentence based on a federal conviction to be served in the **future**, the motion should be filed in the federal court which entered the judgment.)

- 1) Name and location of the court which entered the judgment of conviction under attack: District of Nevada (Reno)
- 2) Date judgment of conviction was entered: 05/09/2019
- 3) Case number: 3:17-cr-00114-LRH-CLB-1
- 4) Length and terms of sentence: 37 months imprisonment; 3 years supervised release

- 5) Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this motion?  
Yes ☐ No ☒
- 6) Name of the judge who imposed sentence under attack in this motion: \_\_\_\_\_  
Larry R. Hicks
- 7) Nature of the offense involved (all counts): \_\_\_\_\_  
Distribution of controlled substances  
\_\_\_\_\_  
\_\_\_\_\_
- 8) What was your plea? **(check one)**  
a) Not Guilty ☐ b) Guilty ☒ c) Nolo Contendere ☐
- 9) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement: Government dismissed Counts 2-39 of indictment,  
agreed on Guidelines range applicable to Count 1  
\_\_\_\_\_
- 10) If you were found guilty after a plea of not guilty, was the finding made by: **(check one)**  
a) A jury ☐ b) A judge without a jury ☐
- 11) Did you testify at trial (if any)? Yes ☐ No ☐
- 12) Did you **appeal** from the judgment of conviction? Yes ☒ No ☐
- 13) If you did appeal, answer the following:  
a) State the name and location of the court where the appeal was filed, the result, the case number and the date of the court's decision (or attach a copy of the court's opinion or order):  
Ninth Circuit Court of appeals; judgment affirmed; 19-10171, May 21, 2020  
\_\_\_\_\_  
\_\_\_\_\_  
b) State the issues raised: Sentencing issues  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 14) If you did not appeal, explain briefly why you did not: \_\_\_\_\_

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- 15) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed in any federal court any petitions, applications or motions with respect to the judgment under attack in this motion? Yes ☐ No ☒

- 16) If your answer to question 15 was "Yes", give the following information:

- a) As to the first petition, application or motion:

1) Name of court: \_\_\_\_\_

2) Nature of proceeding: \_\_\_\_\_

3) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐

5) Result: \_\_\_\_\_

6) Date of result: \_\_\_\_\_

7) Did you appeal the result to the federal appellate court having jurisdiction? Yes ☐ No ☐ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8) If you did not appeal, briefly explain why you did not:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- b) As to any second petition, application or motion, give the following information:

- 1) Name of court: \_\_\_\_\_
- 2) Nature of proceeding: \_\_\_\_\_
- 3) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐
- 5) Result: \_\_\_\_\_
- 6) Date of result: \_\_\_\_\_
- 7) Did you appeal the result to the federal appellate court having jurisdiction? Yes ☐ No ☐ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 8) If you did not appeal, briefly explain why you did not: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c) As to any third petition, application or motion, give the following information:

- 1) Name of court: \_\_\_\_\_
- 2) Nature of proceeding: \_\_\_\_\_
- 3) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐
- 5) Result: \_\_\_\_\_
- 6) Date of result: \_\_\_\_\_

7) Did you appeal the result to the federal appellate court having jurisdiction? Yes ☐ No ☐ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order): \_\_\_\_\_

8) If you did not appeal, briefly explain why you did not: \_\_\_\_\_

17) State **concisely** every ground on which you claim that you are being held unlawfully. Summarize **briefly** the **facts** supporting each ground. If necessary, you may attach up to two extra pages (8 1/2" x 11") stating additional grounds or supporting facts. You should raise in this motion all available grounds for relief which relate to the conviction under attack.

a) Ground One: Ineffective Assistance of Counsel for letting me sign a plea agreement without understanding the elements of the crime

1) Supporting facts (tell your story briefly without citing legal authority or argument):

The Supreme Court recently decided *Ruan v. United States*, 142 S. Ct. 2370 (2022), which held that in order for the government to convict physicians, who are authorized to issue prescriptions for controlled substances, of unlawfully distributing or dispensing controlled substances, the government must prove that the physician issued prescriptions that they KNEW TO BE UNAUTHORIZED. This is completely different from what my attorney told me was required for conviction. I did not understand what the elements of the charges against me were because my lawyer did not tell me. He misled me and let me plead guilty anyway.

2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. § 2255, or any other petition, motion or application?  
Yes ☐ No ☒

a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_

- 
- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: I only recently became aware of what the law was.
- 

- b) Ground Two: Plea agreement and plea colloquy did not properly state the elements of the offense
- 

- 1) Supporting facts (tell your story briefly without citing legal authority or argument):

I was convicted because I admitted that I distributed oxycodone outside the usual course of professional practice and not for a legitimate medical purpose. I now know that the law actually requires me to know that the prescriptions I issued were not authorized at the time I wrote them, in order to be guilty. This element was completely omitted from my plea agreement and from the plea hearing with the judge. I did not know or believe that the prescriptions were actually unauthorized and therefore I should not have been convicted.

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. §2255, or any other petition, motion or application?  
Yes ☐ No ☒

- a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_

- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: The Ruan decision had not been decided yet
- 

- c) Ground Three: \_\_\_\_\_
-

- 1) Supporting facts (tell your story briefly without citing legal authority or argument):

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. §2255, or any other petition, motion or application? Yes ☐ No ☐

- a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_

- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: \_\_\_\_\_

- d) Ground Four: \_\_\_\_\_

- 1) Supporting facts (tell your story briefly without citing legal authority or argument):

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. §2255, or any other petition, motion or application? Yes ☐ No ☐
- a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_
- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: \_\_\_\_\_
- 18) Do you have any petition, application, motion or appeal now pending in any court regarding the conviction under attack? Yes ☐ No ☒ If "Yes", state the name of the court and the nature of the proceeding: \_\_\_\_\_
- 19) Were you represented by an attorney at any time during the course of your arraignment and plea, trial (if any), sentencing, appeal (if any), or during the preparation, presentation or consideration of any petitions, motions or applications which you filed with respect to this conviction? Yes ☒ No ☐ If "Yes", state the name(s) and address (es) of any such attorney(s), the proceedings in which you were so represented and whether said attorney(s) was/were of your own choosing or if appointed by the court: Lance A Maningo, 400 S. 4th Street Ste 650 Las Vegas, NV  
for plea and sentencing, chosen by me.  
Stephen Neal Preziosi, 48 Wall Street, 11th Floor, New York, NY  
for appeal, chosen by me.

Wherefore, movant prays that the court grant him such relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)



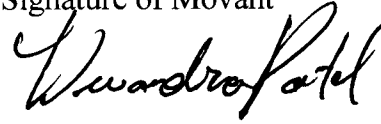
53 West Jackson Blvd Suite 1410

Chicago IL 60604

(Attorney's full address and telephone  
number.)

(312) 765-8878

Signature of Movant



**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he is the movant in the above action, that he has read the above pleading and that the information contained therein is true and correct.

28 U.S.C. § 1746. 18 U.S.C. § 1621.

Executed at

Chicago

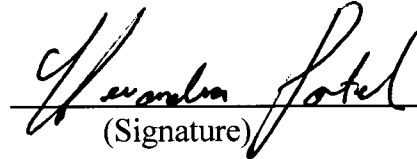
(Location)

on

6/27

(Date)

, 20 23



(Signature)

